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Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Revised estimates relating to the budget of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 for the biennium 2010-2011

Report of the Secretary-General

Summary

The present report reflects additional requirements in the amount of $31 million, net of staff assessment, over the initial appropriation for the International Criminal Tribunal for Rwanda for the biennium 2010-2011 as approved by the General Assembly in its resolution 64/239. The increased requirements relate primarily to the revision of the trial schedule for the biennium 2010-2011 as a result of the recent apprehension of some high-level accused as well as changes in the completion dates of a number of first-instance trials. The Assembly is requested to approve an additional appropriation in the amount of $34,223,000 gross ($31,056,000 net) to the Special Account for the International Criminal Tribunal for Rwanda for the biennium 2010-2011.

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I. Introduction

1. The General Assembly, in its resolution 64/239, decided to appropriate to the Special Account for the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 a total amount of $245,295,800 gross ($227,246,500 net) for the biennium 2010-2011.

2. In paragraph 3 of part II of resolution 64/239, the General Assembly welcomed the arrest of two further indictees, requested the Tribunal to proceed with their prosecutions from available resources, and requested the Secretary-General, in that respect, to report to the Assembly on the financial implications of those prosecutions at its next session.

3. For reasons beyond the control of the Tribunal, the trial schedule for the biennium 2010-2011 has been significantly revised to reflect changes in the estimated completion dates of first instance trials as compared with the schedule available at the time of the preparation of the budget for the biennium 2010-2011. Furthermore, the preparation of two new trials following the apprehension of two fugitives (Grégoire Ndahimana, arrested in August 2009, and Idelphonse Nizeyimana, arrested in October 2009) has contributed to the revision of the trial schedule of the Tribunal. A further arrest, that of Jean-Bosco Uwinkindi in June 2010, has necessitated the preparation of the case for both rule 11 bis application for referral and the simultaneous preparation for trial in case the application for referral is denied. The details related to the revision of the trial schedule and the related additional resource requirements are provided in the paragraphs below.

II. Revised programme of work for the biennium 2010-2011, and status report on trials and referrals as at 2 July 2010

4. In paragraphs 14 and 17 of his report to the General Assembly on the budget for the Tribunal for the biennium 2010-2011 (A/64/478), the Secretary-General indicated that intensified efforts continued for the tracking and apprehension of the 13 fugitives who remained at large, including those prioritized for trial at the Tribunal because they bear the greatest responsibility for the genocide. It should be noted that the trial schedule and the budget proposal submitted by the Tribunal for the biennium 2010-2011 did not take into account the resource requirements related to the trials of the fugitives who, at the time of the finalization of the Tribunal budget for 2010-2011, remained at large. The Secretary-General indicated that resource requirements in respect of those fugitives would be addressed in the context of revised estimates as and when the fugitives were apprehended.

5. The judicial workload of the Tribunal, which had been projected to decrease significantly beginning in the second half of 2009, actually increased on account of two new arrests during that period. In addition, trials expected to be completed during the same period were not completed. In the light of those developments, the Tribunal anticipates that it will be conducting trials and writing judgements in 12 cases involving 24 accused persons during the biennium 2010-2011, as set out below:

(a) Cases at the judgement-drafting phase in which judgement delivery is expected in 2010: five cases, involving 13 accused (*Butare* (6 accused); *Military II* (4 accused); *Hategekimana* (1 accused); *Ntawukulilyayo* (1 accused); and *Kanyarukiga* (1 accused));

(b) One single-accused case in which the hearing of evidence will be completed and judgement delivered in 2010: *Gatete*;

(c) One multi-accused case in the judgement-drafting phase in which judgement delivery is expected in 2011: *Bizimungu et al.* (four accused);

(d) Cases in which trial is ongoing and judgement will be completed in 2011: three cases, involving 4 accused (*Karemera et al.* (2 accused, following the death, on 1 July 2010, of 1 accused); *Ngirabatware* (1 accused); and *Nzabonimana* (1 accused));

(e) Cases in which trial will commence in 2010 and judgement will be delivered in 2011: two single-accused cases (*Ndahimana* and *Nizeyimana*);

(f) Appeals in which judgement delivery is expected in 2010: four cases, involving 7 appellants (*Rukundo* (2 appellants); *Kalimanzira* (2 appellants); *Renzaho* (1 appellant); and *Muvunyi* (2 appellants));

(g) Appeals in which judgement delivery is expected in 2011: seven cases, involving 15 appellants (*Bagosora et al.* (3 appellants); *Setako* (2 appellants); *Munyakazi* (1 appellant); *Kanyarukiga* (1 appellant); *Ntawukulilyayo* (1 appellant); *Hategekimana* (1 appellant); and *Gatete* (1 appellant)).

6. The estimates of the time frame for the completion of the ongoing trials have been revised in the light of developments since the preparation of the budget for the biennium 2010-2011. In addition, trial work has fallen behind the schedule originally contemplated for the biennium 2010-2011, and some of the trials ongoing in 2010 are now expected to continue into 2011. A number of factors have contributed to the delays in the trial schedule, as set out below:

(a) Staffing constraints due to a high departure rate and difficulties in recruiting new staff, in particular for higher-level posts and temporary contracts, have delayed the cases in the judgement-drafting phase;

(b) Fair trial requirements have made it necessary in several cases to grant additional time to the defence for preparation of the presentation of cases or the submission of closing briefs;

(c) Owing to the parallel assignment of judges to several cases, delays in one trial have had a domino effect on other cases by creating major challenges for the Tribunal in terms of the scheduling of trials for evidence hearings, site visits and the hearing of closing arguments.

7. Revisions to the judicial calendar as compared with the projections outlined in the Secretary-General's report (A/64/478) are due to the facts outlined below:

(a) Two fugitives have been arrested and it is anticipated that their trials will commence in 2010. A third fugitive was arrested in June 2010. His case is earmarked for referral to a national jurisdiction. In case the referral is denied, he will be tried at the Tribunal. Details are as follows:

(i) **Grégoire Ndahimana** was arrested in the Democratic Republic of the Congo on 10 August 2009 and subsequently transferred to the Tribunal.

According to the current trial schedules, the prosecution part of his trial is expected to commence in September 2010 and judgement delivery is expected in August 2011;

(ii) **Idelphonse Nizeyimana** was arrested in Uganda on 5 October 2009 and transferred to the Tribunal. He is one of the four highest-priority fugitives earmarked in the completion strategy for trial at the Tribunal. His trial is expected to start in November 2010 and judgement delivery is expected in November 2011;

(iii) **Jean-Bosco Uwinkindi**, the third fugitive, was arrested in Uganda on 30 June 2010 and transferred to the Tribunal. His case is earmarked for referral to a national jurisdiction. Pending the request for such a referral by the Prosecutor and approval by the Chambers, pre-trial work has commenced;

(b) Judgement-drafting in one completed trial (***Bizimungu et al.***) and three ongoing trials will continue into 2011: ***Karemera et al.***, ***Ngirabatware*** and ***Nzabonimana***. In two of those cases (see *Ngirabatware* and *Nzabonimana* below), the evidence phase will also spill over into the beginning of 2011;

(c) The four multi-accused trials are all facing staffing constraints. In three of the four cases, the judgement coordinators, as well as other legal staff in the drafting teams, have left or will leave before judgement delivery. Those factors, as well as the parallel assignment of the judges, in particular in the *Nyiramasuhuko et al.* trial, have led to delays in the judgement-delivery dates, as follows:

(i) ***Karemera et al.*** On 19 June 2009, the Appeals Chamber overruled the order of the Trial Chamber separating the trial of Ngirumpatse from his joint trial with Karemera and Nzirorera. Since then, the Trial Chamber has continued with the joint trial that includes Ngirumpatse. On 1 July 2010, one of the accused, Nzirorera, died, shortly before the completion of his defence case. That development has had no impact on the completion schedule for the trial, as the defence case of Ngirumpatse had already been scheduled to start on 23 August 2010. The evidence phase is expected to be completed in the last quarter of 2010. Judgement delivery is now expected in September 2011, instead of in the first half of 2011;

(ii) ***Ndindiliyimana et al.*** Judgement delivery is expected in December 2010, instead of in September 2010;

(iii) ***Nyiramasuhuko et al.*** Judgement delivery is expected in December 2010, instead of in September 2010;

(iv) ***Bizimungu et al.*** Judgement delivery is expected in the first half of 2011, instead of in September 2010;

(d) In single-accused cases, delays of more than one month are expected in four trials, owing to staffing constraints and/or the parallel assignment of judges involved in the cases. In three cases, fair trial requirements made it necessary to make additional adjustments regarding the scheduling of the evidence-hearing phase:

(i) ***Hategekimana***. Judgement delivery is expected in October 2010, instead of at the end of June 2010;

(ii) ***Kanyarukiga***. Judgement delivery is expected in August 2010, instead of at the end of June 2010. Fair trial requirements led to a delay in the start of the defence case, which resulted in the trial spilling over into 2010;

(iii) ***Ngirabatware***. Judgement delivery is expected in September 2011, instead of in December 2010. In the ***Nzabonimana*** trial, judgement delivery is expected in October 2011, instead of in December 2010. In both cases, fair trial requirements have significantly lengthened the duration of the evidence phase far beyond expectations, affecting the judgement-delivery dates, in particular, owing to the multiple assignments of the presiding judges in both cases;

(e) In the ***Ntawukulilyayo*** trial, the filing of closing briefs was postponed from February until March and the delivery of closing arguments was postponed until June 2010 to allow the defence additional time to prepare the closing briefs and the Trial Chamber to undertake a site visit to Rwanda. However, the judgement will be delivered on 3 August 2010, earlier than previously expected (September 2010);

(f) No trial was conducted in the ***Bagaragaza*** case, as the accused pleaded guilty, and the sentencing judgement was delivered in November 2009.

8. The Appeals Chamber has already delivered three appeal judgements in 2010 (*Nshogoza* (contempt), *Bikindi* and *Nchamihigo*). For the remainder of 2010, the Appeals Chamber expects to hear appeals in six cases (*Bagosora et al.*, *Rukundo*, *Kalimanzira*, *Renzaho*, *Muvunyi* and *Setako*) and to deliver four more appeal judgements, involving 7 appellants (*Rukundo* (2 appellants); *Kalimanzira* (2 appellants); *Renzaho* (1 appellant); and *Muvunyi* (2 appellants)).

9. In 2011, the Appeals Chamber expects to hear appeals in five cases involving 5 appellants (*Munyakazi* (1 appellant); *Kanyarukiga* (1 appellant); *Ntawukulilyayo* (1 appellant); *Hategekimana* (1 appellant); and *Gatete* (1 appellant)) and to deliver judgements in those five cases in addition to the two cases in which the appeals will have been heard in 2010 (*Bagosora et al.* (3 appellants) and *Setako* (2 appellants)).

10. The remaining 10 fugitives at large include 3 prioritized for trial at the Tribunal, namely, Félicien Kabuga, Augustin Bizimana and Protais Mpiranya.

11. The Tribunal intends to complete its trial work before the end of 2011, with appeals to be completed by the end of 2013, if no new arrests of indictees to be tried at the Tribunal are made.

III. Additional resource requirements for the biennium 2010-2011

Table 1
Additional requirements by component
(Thousands of United States dollars)

	Initial appropriation	*Change*	*Estimate*
Expenditure			
A. The Chambers	10 612.3	1 191.3	11 803.6
B. Office of the Prosecutor	48 577.9	11 030.4	59 608.3

	Initial appropriation	*Change*	*Estimate*
C. The Registry	178 545.4	22 001.3	200 546.7
D. Records management and archives	7 560.2	—	7 560.2
Total (gross)	**245 295.8**	**34 223.0**	**279 518.8**
Income			
Income from staff assessment	18 049.3	3 167.0	21 216.3
Total (net)	**227 246.5**	**31 056.0**	**258 302.5**

Table 2
Additional requirements by object of expenditure
(Thousands of United States dollars)

	Initial appropriation	*Change*	*Estimate*
Expenditure			
Posts	146 544.2	—	146 544.2
Other staff costs	21 232.3	27 722.9	48 955.2
Non-staff compensation	9 967.3	1 074.7	11 042.0
Consultants and experts	276.7	73.0	349.7
Travel of representatives	645.0	116.6	761.6
Travel	3 458.4	794.9	4 253.3
Contractual services	23 829.6	—	23 829.6
General operating expenses	13 400.6	490.0	13 890.6
Hospitality	8.3	—	8.3
Supplies and materials	2 539.5	105.9	2 645.4
Furniture and equipment	2 553.6	678.0	3 231.6
Improvement of premises	388.0	—	388.0
Grants and contributions	2 403.0	—	2 403.0
Staff assessment	18 049.3	3 167.0	21 216.3
Total (gross)	**245 295.8**	**34 223.0**	**279 518.8**
Income			
Income from staff assessment	18 049.3	3 167.0	21 216.3
Total (net)	**227 246.5**	**31 056.0**	**258 302.5**

12. The overall level of resources approved for the biennium 2010-2011 reflected a reduction in posts and non-post resources in line with the projected reduction in trial activity as from October 2010. However, on the basis of the revised trial schedule, the Tribunal anticipates full first-instance trial activity throughout 2010, with reduced trial activity as from the second half of 2011. Accordingly, additional provisions are requested for the following non-post items: salaries and allowances of judges, travel of representatives, general temporary assistance, consultants, travel of witnesses, rental of fixed-wing aircraft, supplies and equipment.

13. The overall additional requirements reflect the minimum requirements in order to: (a) start and complete two new single-accused trials involving new arrests (*Ndahimana* and *Nizeyimana*); (b) prepare one additional new single-accused case for referral to a national jurisdiction or for trial in case the referral fails; (c) complete the drafting and delivery of judgements in four ongoing multi-accused cases, involving 16 accused persons, and seven single-accused cases.

14. On the basis of the projected reduced trial activity at the time of the finalization of the budget proposal for the biennium 2010-2011 (July 2009), the Tribunal requested the extension of functions relating to 93 posts in the Registry that were abolished in 2009, for a nine-month period beginning in January 2010, funded from general temporary assistance. However, the initial projections did not materialize, as there were more uncompleted trials at first instance by the beginning of the biennium 2010-2011 than the three single-accused cases projected in the first half of 2009. The arrest of two fugitives in the second half of 2009 added two cases to the trial workload. In the light of those developments, the Tribunal had to retain additional functions in respect of 135 posts that were abolished in 2009 (41 for the Office of the Prosecutor (35 Professional and 6 General Service posts) and 94 for the Registry (7 Professional and 87 General Service posts)). According to the revised judicial calendar, all 228 functions referred to above are required up to 30 June 2011. As there were no provisions for the 135 posts in the approved budget for the biennium 2010-2011, the Tribunal extended the 135 abolished posts for the performance of functions essentially required from January 2010 from within available resources, in line with paragraph 5 of General Assembly resolution 63/256 and paragraphs 3, 5 and 6 of section II of resolution 64/239, pending consideration by the Assembly of the required resources. Accordingly, the resources for the 18-month period have been included in the current estimates for those 135 positions. In addition, the Tribunal would require the continuation of functions for an additional period of six months with respect to 60 posts (20 Professional and 40 General Service) scheduled for abolition effective 1 January 2011 through the provision of general temporary assistance resources. As explained in the preceding paragraphs, the increased judicial workload and revised trial schedule indicate that the level and pace of trial activity up to mid-2011 will be in line with those in 2008-2009. It should be noted that the Tribunal exerted efforts to manage the additional requirements from existing resources. However, that did not prove to be possible owing to the enormity of the revised judicial workload.

15. From January to July 2011, a pool of legal staff will be created from staff whose current assignments are expected to be completed, according to the current trial schedule, by November or December 2010. The purpose of the pool is to obviate the adverse consequences for the Chambers of the extremely high rate of departure of legal staff (13 staff members have left the Chambers since January 2010). It should be noted that replacing staff is a cumbersome process and that newly recruited staff need at least two months to become familiar with a case. This results in delays in the writing of judgements. The pool will address this problem and ensure that experienced staff are available to take over and complete the work in the event of the continued departure of legal staff, handle additional trial work in 2011, such as rule 11 bis requests and contempt proceedings (at least two are expected in 2011), and provide additional assistance to the judgement-drafting teams during the weeks leading up to judgement delivery.

16. The Tribunal reiterates that there is a need to maintain an adequate level of competent, committed and experienced staff for the core functions of the Tribunal, which is critical in order to prevent further delays in the finalization of trials and the delivery of judgements.

A. Chambers

17. The President of the International Criminal Tribunal for Rwanda, in his report to the Security Council on the updated completion strategy of the Tribunal (see S/2010/259), reported that, as at 25 May 2010, first-instance trials have been completed with respect to 50 accused. During the period from 9 November 2009 to 25 May 2010, the three Trial Chambers of the Tribunal delivered three judgements in single-accused cases, including one retrial (*Nsengimana*, *Muvunyi* and *Setako*), and closed the evidence in three trials (*Kanyarukiga*, *Ntawukulilyayo* and *Gatete*). Three trials (*Ngirabatware*, *Nzabonimana* and *Karemera et al.*) are ongoing. Judgements are expected to be delivered in seven trials with respect to 15 accused (*Nyiramasuhuko et al. (Butare)*, *Ndindiliyimana et al. (Military II)*, *Munyakazi*, *Hategekimana*, *Kanyarukiga*, *Ntawukulilyayo* and *Gatete*) before the end of 2010, and in six additional trials with respect to 11 accused (*Bizimungu et al.*, *Nzabonimana*, *Ngirabatware*, *Karemera et al.*, *Ndahimana* and *Nizeyimana*) during the course of 2011, including in two trials which will commence in the course of 2010. A further judgement was delivered in the single-accused case of *Yusuf Munyakazi* on 30 June 2010. The accused was convicted and sentenced to 25 years of imprisonment.

18. The revision of the trial calendar has had an impact on the number of judges whose services will continue to be required in 2011. The Tribunal request for the extension of the terms of office of seven permanent judges and nine ad litem judges beyond 31 December 2010 was approved by the Security Council in its resolution 1932 (2010) of 29 June 2010. The redeployment of one trial judge to the Appeals Chamber is expected by January 2011, and that of three others by mid-2011.

Table 3
Additional requirements by object of expenditure
(Thousands of United States dollars)

	Initial appropriation	*Change*	*Estimate*
Non-staff compensation	9 967.3	1 074.7	11 042.0
Travel of representatives	645.0	116.6	761.6
Total (gross)	**10 612.3**	**1 191.3**	**11 803.6**

Resource requirements

Salaries and allowances of judges

19. The estimated additional requirements of $1,074,700 under this heading would provide for honorariums for the judges (seven permanent judges and nine ad litem judges) as a result of the extension of the tenure of assignment beyond the period previously contemplated by the revised trial schedule ($1,392,200, partly offset by reduced requirements under common costs of judges ($317,500)).

Travel of representatives

20. The additional requirements of $116,600 relate to the travel of members of the Appeals Chamber to attend appeals hearings and plenary sessions, and the revised requirements for the site visits of judges.

B. Office of the Prosecutor

21. The experience of trial work in the Office of the Prosecutor during the first six months of the biennium 2010-2011 has clearly demonstrated that the resources approved for trial work in 2010 are inadequate. The remaining workload for the Office of the Prosecutor in relation to trials in the first instance can be summarized as follows:

Trials spilling over for the hearing of evidence	5
Trials spilling over for closing briefs and arguments	3
New trials expected during the biennium	3

22. By the end of 2009, there remained more trials uncompleted at first instance than the three single-accused trials that had been projected for the first half of 2009. The arrest of two fugitives in the second half of 2009 and one during 2010 added two cases to the trial workload. Details of developments since May 2009 are set out below:

(a) Grégoire Ndahimana and Idelphonse Nizeyimana were arrested in August and October 2009, respectively. In view of the previous rejection of the Prosecutor's rule 11 bis applications for referral of cases to Rwanda and the fact that no other jurisdiction was willing and able to take cases referred by the Tribunal, the *Ndahimana* case also had to be tried at the Tribunal. According to the latest judicial calendar, the *Ndahimana* trial is expected to commence on 6 September 2010 and to be completed in April 2011. The Prosecutor requires additional resources to prepare and prosecute the case. The trial of Idelphonse Nizeyimana is expected to start in November 2010 and to be completed in June 2011. The Prosecutor also requires a complete trial team plus supporting staff to prepare and present this case at trial;

(b) Jean-Bosco Uwinkindi was arrested in Rwanda on 30 June 2010 and transferred to the Tribunal on 2 July 2010. As this case is earmarked for referral to a national jurisdiction for trial, the Prosecutor must immediately initiate the preparation of the referral application under rule 11 bis, which would include the preparation of the case for trial at the Tribunal should the referral application fail. The Prosecutor therefore requires additional resources to form a trial team to prepare the *Uwinkindi* case for referral or for trial should the referral application not prove successful;

(c) As explained above (see para. 7), the *Karemera et al.* trial continues as a multi-accused trial, whereas it had been expected that only the severed *Ngirumpatse* case would continue in 2010 and that the *Karemera and Nzirorera* case would be completed by the end of 2009. According to the most recent judicial calendar, that multi-accused trial is now expected to be completed in May 2011. A multi-accused trial requires more resources than a single-accused trial. While the Prosecutor budgeted for the trial on the assumption that it would be a single-accused trial, the

fact that it now continues as a multi-accused trial means that there is a requirement for additional resources;

(d) At the end of 2009, the number of trials that had to be continued in 2010 had increased to eight from the expected three. They included three single-accused trials (*Munyakazi, Ntawukulilyayo* and *Hategekimana*) that were expected to spill over into 2010 for the delivery of closing arguments. The Prosecutor had to retain a trial team for the *Munyakazi* trial up to the end of January 2010, when closing arguments were delivered. Thereafter, some of the trial team members were redeployed to the preparation and presentation of the *Gatete*, *Ndahimana* and *Nzeyimana* trials. In the *Hategekimana* trial, closing arguments were heard on 28 April 2010 instead of in February 2010. This meant that the Prosecutor had to retain a trial team for the case until April 2010, although there was no budget provision for it in 2010. In the *Ntawukulilyayo* trial, the filing of closing briefs was initially scheduled for 25 February 2010. This deadline was moved to 25 April 2010, and closing arguments were scheduled for 14 June 2010. The Prosecutor is therefore required to retain a trial team until the end of June 2010 to ensure the proper conclusion of the trial;

(e) The unexpected spillover of these three single-accused trials into 2010 by one month, four months and six months, respectively, required that trial teams represent the Prosecutor in all three trials during the relevant periods in 2010, in spite of the fact that he had not anticipated and had therefore not budgeted for them;

(f) The *Kanyarukiga* and *Ngirabatware* trials were projected to be completed during 2009; accordingly, no provision was made for them in the budget estimates of the Office of the Prosecutor for the biennium 2010-2011. Both trials continued into 2010. The *Kanyarukiga* trial was eventually completed, on 24 May 2010. Up to that point, the Prosecutor had required a full trial team (which had not been foreseen and budgeted for) to complete the prosecution of the case. The *Ngirabatware* trial is still running. The judicial calendar foresees that the hearing of evidence will be completed in February 2011 and that closing arguments will be delivered in April 2011. The Prosecutor requires a complete trial team to prosecute the case until April 2011;

(g) Two trials (*Gatete* and *Nzabonimana*) were expected to continue in the first half of 2010. The spillover is now longer in both cases. According to the most recent judicial calendar, the closing arguments in the *Gatete* trial are expected to be delivered in October 2010. The latest judicial calendar envisages that closing arguments in the *Nzabonimana* trial will be heard on 3 June 2011. The Prosecutor requires a trial team for both cases, until October 2010 in the *Gatete* trial and until June 2011 in the *Nzabonimana* trial.

23. During the first six months of 2010, the Prosecutor and the other organs of the Tribunal made concerted efforts to cover the funding shortfall using existing resources. Those efforts have been of three types:

(a) Thus far, it has been possible for the Prosecutor to use, on a temporary basis, some of the resources of the Appeals and Legal Advisory Division to deal with some of the trial workload. That has been possible because of the delay in the delivery of judgements in some of the single- and multi-accused trials. The high appeals workload that had been projected for early 2010 has been delayed in line with the delay in the delivery of the judgements. However, the Division is expecting

about 24 new appeals (from two multi-accused and two single-accused cases) during the period August to December 2010, which will reduce the extent to which the Prosecutor can rely on Division resources for the conduct of trials. It is therefore critical that the Prosecutor acquire additional resources to carry on and complete the remaining trials. Current projections are that judgements in the *Ntawukulilyayo* and *Kanyarukiga* trials will be delivered in August 2010. In the *Nyiramasuhuko et al. (Butare)* trial, involving 6 accused persons, a judgement is expected in December 2010. The *Hategekimana* trial judgement is expected in October 2010. The delivery of a judgement in the multi-accused trial of Ndindiliyimana and three others is expected in December 2010. The delivery of a judgement in the *Bizimungu et al.* multi-accused trial is expected in the first half of 2011;

(b) The Office of the Prosecutor has been able to use savings from vacant posts to provide temporary staffing for some of the trials. Those resources are, however, very limited, given the fact that recruitment is continuing and vacant posts are being filled;

(c) Where possible, the Prosecutor has redeployed available resources from one completed trial to another. For example, some of the resources for the *Kanyarukiga* trial have been redeployed for the preparation and presentation of the *Ndahimana* trial. Some resources from the *Munyakazi* trial have been redeployed to the *Ndahimana* case. It is hoped that some resources from the *Gatete* trial will be redeployed to the *Nizeyimana* trial in October 2010. It should be noted that it is becoming increasingly difficult to employ this strategy. Because of the limited time remaining for the completion of all trials and the fact that some trial work must be done simultaneously, it is not always possible to wait until one trial has been completed before resources are redeployed to another. For that reason, it is necessary to have resources sufficient to permit trial work to proceed simultaneously when the judicial calendar so dictates. This may require an upsurge in resources, but it is expected to ensure the speedier completion of trials.

24. The Prosecutor requires additional resources in order to strengthen capacity in the two sections that support trial work: the Investigations Section, which conducts investigations, tracks indicted persons and supports ongoing trials; and the Information and Evidence Support Section, which is the custodian of the documents of the Office of the Prosecutor used in investigations, trials and appeals. Those sections are the lifeblood of the work of the Office of the Prosecutor, without which neither trials nor appeals can be conducted. The resources included in the Tribunal budget submission for 2010-2011 for those two support units have become inadequate as a result of the developments described in the present report.

25. The core mandate of the Information and Evidence Support Section is to manage information and evidence of the Office of the Prosecutor throughout their life cycle. This is done by capturing, securing, storing and providing information and evidence, as well as providing access to users through the document control pipeline. This involves the systematic management of information, documents and evidence created or received in the Office throughout their life cycle, which includes repository management and vault services. The Section provides trial support through training on Office information resources, assisting with searches, carrying out research, assisting with disclosures in the electronic domain, populating and updating Office databases. The Section also provides an integrated system for identifying, capturing, retrieving, sharing and evaluating the information assets of

the Office of the Prosecutor. This is done through the development and maintenance of the information portal, the Office Intranet. This facility groups all the information databases and assets together in one Sharepoint-technology-enabled environment, with the goal of capturing Office knowledge assets and enabling their retrieval, access and use by both trial and appeals lawyers. The Section also provides systems support to trial and appeals teams through technical services, the management of software and hardware, the provision of support information tools and the maintenance of Office databases. The Information and Evidence Support Section is expected to support trial teams working on matters relating to rule 71 bis by carrying out extensive research. Research support is also required by the Appeals and Legal Advisory Division on an ongoing basis in relation to declarations that the Division has to make in each appeal regarding rule 68 disclosures. Such research often involves combing through hundreds of pages of transcripts and other materials. Because of the increase in the trial workload for 2010, resources have become inadequate to provide for these support functions. The Prosecutor therefore requires general temporary assistance resources to cover the shortfall.

26. Investigation Section support involves tracking witnesses whom trial and appeals teams wish to proof and prepare for trial, interviewing new witnesses if so required, managing potential prosecution witnesses, finding documents and physical exhibits, accompanying trial team members to crime sites when on mission in Rwanda to consult and prepare witnesses and testifying on behalf of the prosecution during the trial. It also involves conducting alibi investigations and defence witnesses background and antecedent checks. With the adoption of rule 71 bis, trial teams will require the support of the Investigations Section to prepare the three new cases for proceedings for the preservation of evidence. The tracking of indicted persons involves the arduous task of searching for with a view to locating and arresting the 10 persons remaining on the Tribunal's wanted list.

27. The increase in the trial workload for 2010 has increased the demand for research support, especially from trial teams. At the same time, the Information and Evidence Support Section is required to continue providing this support to the Appeals and Legal Advisory Division, whose workload is also increasing as more judgements are handed down.

Table 4
Additional requirements by object of expenditure
(Thousands of United States dollars)

	Initial appropriation	*Change*	*Estimate*
Expenditure			
Posts	41 509.0	—	41 509.0
Other staff costs	—	9 878.6	9 878.6
Consultants and experts	134.3	—	134.3
Travel	1 401.9	—	1 401.9
General operating expenses	697.9	—	697.9

	Initial appropriation	*Change*	*Estimate*
Staff assessment	4 834.8	1 151.8	5 986.6
Total (gross)	**48 577.9**	**11 030.4**	**59 608.3**
Income			
Income from staff assessment	4 834.8	1 151.8	5 986.6
Total (net)	**43 743.1**	**9 878.6**	**53 621.7**

Resource requirements

Other staff costs

28. On the basis of the latest trial schedule for the biennium 2010-2011, the Tribunal has determined that some of the functions slated for termination in 2009 and in the biennium 2010-2011 would need to be extended until 30 June 2011. Accordingly, the additional requirement of $9,878,600 would cover the corresponding salaries and common staff costs associated with the following:

(a) Reinstatement of the functions related to 41 posts (3 P-5, 5 P-4, 16 P-3, 11 P-2, 1 General Service (Other level) and 5 Local level) that were abolished in 2009. The reinstatement of the posts would be for a period of 18 months, from 1 January 2010 until 30 June 2011;

(b) The approved budget for the biennium 2010-2011 provided for the phasing out of the functions of 23 posts in the Office of the Prosecutor effective 1 January 2011. However, on the basis of the revised trial schedule for the biennium 2010-2011, the Tribunal has determined that the functions of 18 posts (1 D-1, 1 P-5, 6 P-4, 6 P-3, 1 P-2 and 3 General Service (Other level)) should be continued for an additional period of six months, until 30 June 2011, funded through general temporary assistance.

29. The funding through general temporary assistance for the above-mentioned functions until 30 June 2011 are commensurate with the revised level of judicial activities during the biennium 2010-2011. Furthermore, that arrangement will ensure that the Office of the Prosecutor has the flexibility to accelerate or decelerate the phasing out of individual positions.

Staff assessment

30. Staff assessment costs are estimated at $1,151,800 relating to the general temporary assistance positions reflected in paragraph 28 above. Those costs will be offset by a corresponding amount under income from staff assessment.

C. Registry

Table 5
Additional requirements by object of expenditure
(Thousands of United States dollars)

	Initial appropriation	*Change*	*Estimate*
Expenditure			
Posts	105 035.2	—	105 035.2
Other staff costs	15 108.3	17 844.3	32 952.6
Consultants and experts	112.2	73.0	185.2
Travel	1 954.7	794.9	2 749.6
Contractual services	23 561.2	—	23 561.2
General operating expenses	12 702.7	490.0	13 192.7
Hospitality	8.3	—	8.3
Supplies and materials	2 444.8	105.9	2 550.7
Furniture and equipment	1 612.5	678.0	2 290.5
Improvement of premises	388.0	—	388.0
Grants and contributions	2 403.0	—	2 403.0
Staff assessment	13 214.5	2 015.2	15 229.7
Total (gross)	**178 545.4**	**22 001.3**	**200 546.7**
Income			
Income from staff assessment	13 214.5	2 015.2	15 229.7
Total (net)	**165 330.9**	**19 986.1**	**185 317.0**

Resource requirements

Other staff costs

31. On the basis of the latest trial schedule for the biennium 2010-2011, the Tribunal has determined that some of the functions slated for termination in 2009 and in the biennium 2010-2011 would need to be extended until 30 June 2011. Accordingly, the additional requirement of $17,844,300 would cover the corresponding salaries and common staff costs associated with the following:

(a) In the current biennium, there are 93 positions (2 P-5, 3 P-4, 18 P-3, 33 P-2, 21 General Service (Other level) and 16 Local level) which are currently funded until 30 September 2010. These positions would need to be extended by an additional period of nine months, up to 30 June 2011;

(b) Reinstatement of the functions related to 94 posts (7 P-2, 5 General Service (Other level), 3 Field Service, 13 Security Service and 66 Local level) that were abolished in 2009. The reinstatement of the posts would be for a period of 18 months, from 1 January 2010 until 30 June 2011;

(c) The approved budget for the biennium 2010-2011 provided for the phasing out of functions of 42 posts (1 P-4, 4 P-2, 15 General Service (Other level),

5 Field Service, 2 Security Service and 15 Local level) in the Registry effective 1 January 2011. However, on the basis of the revised trial schedule for the biennium 2010-2011, it is proposed that the functions of the posts be continued for an additional period of six months, until 30 June 2011, and funded through general temporary assistance.

32. Funding through general temporary assistance for the above-mentioned functions until 30 June 2011 is commensurate with the revised level of judicial activities during the biennium 2010-2011. Furthermore, that arrangement will ensure that the Registry has the flexibility to accelerate or decelerate the phasing out of individual positions.

Consultants and experts

33. The additional requirement of $73,000 is based on a revised assessment by the Witnesses and Victims Support Section for the engagement of an additional nine expert witnesses related to the trials of three accused scheduled in the second half of 2010 and early 2011. The cost includes consultancy fees ($40,500) based on an average rate of $4,500 and the cost of return airfare and daily subsistence allowance for 14 days' stay by the expert witnesses in Arusha ($32,500).

Travel

34. The additional amount of $794,900 is attributable to the travel and allowances for both prosecution and defence witnesses and the travel of staff in support of witnesses and other necessary activities resulting from increased trial activities. It is anticipated that an additional 330 witnesses might be called for testimony during the biennium 2010-2011. The cost of travel includes costs for travel documents, local travel, accommodation costs and daily subsistence allowance.

General operating expenses

35. The additional requirements of $490,000 under rental of fixed-wing aircraft would provide for the increased operation of the United Nations Beechcraft in the light of the increased movement of witnesses to be handled during the biennium 2010-2011, in particular between Kigali and Arusha, as a consequence of the revised trial schedule. The provision includes a base cost, crew maintenance, landing and parking fees, ground-handling services, additional risk insurance and storage.

Supplies and materials

36. The additional resources of $105,900 relate to the reinstatement of the reduction applied to office supplies and materials in the proposed budget for the biennium 2010-2011, which were based on the assumption of reduced trial activities during the biennium.

Furniture and equipment

37. The additional requirements of $678,000 relate to the necessary replacement of worn-out/unserviceable equipment which had been scheduled for disposal in the biennium 2008-2009 but had been retained on the assumption that the level of trial work would be significantly lower beginning in the second half of 2010. However, given the revision of the judicial calendar, which envisages a reduction in trial

activities beginning in the second half of 2011, there is a need for equipment to be replaced for the effective functioning of the Tribunal, as follows: (a) five vehicles that were written off but have been kept in the fleet owing to existing operational needs, so as to prevent the vehicle breakdowns that had been occurring during the movement of witnesses/victims and accused persons ($250,000); (b) worn-out and unserviceable video and audio equipment, the breakdown of which could be disruptive to judicial proceedings, as video and audio equipment is essential for the smooth functioning of the courtrooms ($72,000); and (c) office automation equipment relating to the replacement of worn-out computers and printers ($90,000), network upgrading ($184,000), the acquisition of software packages ($7,000) and the replacement of obsolete/unserviceable electronic data-processing workshop equipment ($75,000).

Staff assessment

38. Staff assessment costs are estimated at $2,015,200 relating to the general temporary assistance positions reflected in paragraph 31 above. Those costs will be offset by a corresponding amount under income from staff assessment.

IV. Actions to be taken by the General Assembly

39. **The General Assembly is requested to:**

(a) **Take note of the present report;**

(b) **Approve an additional appropriation in the amount of $34,223,000 gross ($31,056,000 net) to the Special Account for the International Criminal Tribunal for Rwanda for the biennium 2010-2011.**